Center for Families, Children & the Courts

Update

Working Together for Families and Children

JUDICIAL COUNCIL OF CALIFORNIA • ADMINISTRATIVE OFFICE OF THE COURTS • JULY 2000 • VOLUME 1, NUMBER 2

VORP Study

SUBMITTED TO LEGISLATURE

In May 2000, the Center for Families, Children & the Courts submitted a report to the California Legislature evaluating Victim Offender Reconciliation Programs (VORPs) in six California counties. The report was prepared in response to Assembly Bill 320 (Goldsmith), which was first introduced in the California Assembly in 1997 and later vetoed by Governor Wilson. If enacted, AB 320 would have established a pilot victim offender reconciliation program in up to three counties selected by the Judicial Council. In these programs trained volunteer mediators bring together victims and juvenile offenders to discuss the offense and its effects on the victims and community. Participation is voluntary. VORPs both augment and provide an alternative to traditional juvenile justice processing.

In his veto message, Governor Wilson noted that VORPs are already permissible and have been established in many places in California. He concluded that the main thrust of AB 320 appeared to be the requirement that the Judicial Council sponsor a study to assess the program's efficacy. For its report, the Center for Families, Children & the Courts selected six existing VORPs that operate programs in counties with small, medium, or large populations for evaluation. Listed alphabetically by county, the sites are:

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Batterers' Treatment:

OBSERVATIONS FROM THE TRENCHES

Alyce LaViolette

I began my work with battered women in 1978, at WomenShelter in Long Beach, California, during the time when many shelters were feminist collectives. Money to fund these programs was hard to come by and system support for battered women was virtually nonexistent. Arresting an abusive mate was unheard of and "batterer" was a dirty word. Much has changed in the last 20 years. Shelter staffing is much more eclectic; program budgets have increased exponentially; systems have rallied and changed to provide easier access to the victims of intimate violence and arrest is relatively commonplace. However, "batterer" is still a dirty word.

For over 18 months, Geraldine Stahley, the executive director of WomenShelter, had been collecting data on the women and children who had participated in the program. The findings were both predictable and unsettling. Over 80 percent of the former residents (who could be tracked and interviewed) had returned to their abusers for a variety of reasons within a year of leaving the shelter. Basic survival needs such as food, shelter, and jobs were ongoing issues for almost every woman in the shelter. Fear of revenge, fear of loss. and fear of the unknown were also consistently embedded in the psyches of women who were part of the residential program. What most shelter advocates did not put "at the top of the list" for returning to an abusive partner was the woman's attachment to this partner and to her role in the family. In a month-long residential crisis program belief systems could not be addressed, and it was in large part the beliefs that drove women back to violent environments.

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Partnership Grants

INCREASING RESOURCES FOR UNREPRESENTED LITIGANTS IN THE COURTS

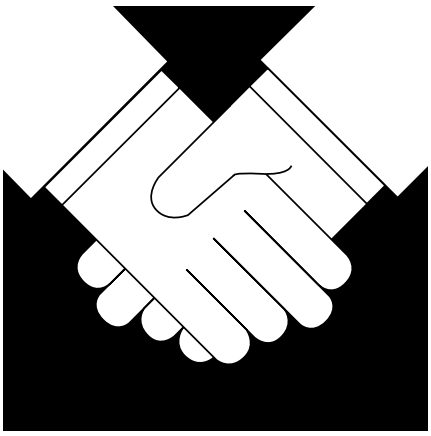
The Center for Families, Children & the Courts is responsible for the Judicial Council's administration of the Equal Access Fund in coordination with the State Bar of California. This fund, which provided $10 million in legal services programs in 1999–2000, requires that $1 million of those funds be allocated to Partnership Grants to provide assistance for unrepresented litigants in collaboration with the local court.

The following programs have received Partnership Grants and have begun operation this Spring.

LANDLORD-TENANT AND GENERAL CIVIL LAW PROJECTS

Alameda County Bar Volunteer Legal Services and East Bay Community Law Center

These two projects will jointly provide services to clients at the Superior Court of Alameda County. Alameda County Bar Volunteer Legal Services will provide drop-in advice, individual appointments, and pro per clinics in the areas of family law and debt collection as well as other consumer-related matters at the Fremont Hall of Justice. East Bay Community Legal Center will provide landlord-tenant counseling and advice and clinics at the Oakland courthouse.



CONTRA COSTA COUNTY DOMESTIC VIOLENCE PRO PER CLINIC

Bay Area Legal Aid

This new project will operate a pro per domestic violence clinic at the Bay Courthouse in Richmond. An attorney will assist pro per drop-ins who are filing domestic violence–related restraining order applications, helping them on an individual basis to complete the applications, and review the pleadings to ensure they are appropriate for filing. The project will be operated in partnership with Battered Women's Alternatives.

FRESNO/TULARE COUNTIES RURAL ACCESS PROJECT

California Legal Services (CLS)

This new project will increase legal access to victims of domestic violence, especially rural residents in Fresno County, and, to the extent possible, in Tulare County. The project will use technology (videoconferencing equipment) and locate staff both at rural sites and at the Family Law Facilitator's Office. A strong community education component will complement the direct services. In Fresno County staff will be located at three sites, two in rural communities. Attorneys will be placed with the family law facilitator in Fresno and at the Selma site to provide services to individuals in need of a restraining order. CLS will place videoconferencing equipment at the Huron site to facilitate access to rural residents of western Fresno County.

FAMILY LAW ACCESS PARTNERSHIP PROJECT

Inland Counties Legal Services

This new project is being conducted in partnership with the Public Service Law Corporation of Riverside County and the Inland Empire Latino Lawyers Association. Project attorneys will provide legal assistance to self-represented indigent family law litigants at the Family Law Assistance Center in Riverside and in a court facility across the street from the Indio Court. The project will help Spanish-speaking litigants access the assistance center. Volunteer attorneys will provide community presentations monthly in Riverside, and the project will try to recruit pro bono lawyers to hold community legal education seminars in Indio each month.

MAYNARD TOLL CENTER EXPANSION

Legal Aid Foundation of Los Angeles

This existing project, which provides family law services at the Central District Superior Court in Los Angeles, must turn away litigants because of its limited hours of operation and staffing. The grant will expand existing services by increasing hours, adding attorney staff time, and hiring bilingual law students. Litigants receive assistance in preparing and filing forms concerning child custody and visitation and child support and restraining orders; in initiating actions for dissolution of marriage and establishment of paternity; and with actions under the Domestic Violence Prevention Act.

UNLAWFUL DETAINER PROJECT

Legal Aid Foundation of Los Angeles

The Legal Aid Foundation of Los Angeles and other collaborating organizations (Bet Tzedek, Inner City Law Center, Los Angeles Center for Law and Justice, Los Angeles Housing Law Project, Public Counsel, San Fernando Valley Neighborhood Legal Services) began the court-based Volunteer Attorney of the Day pilot project in 1998 to provide counsel

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Partnership Grants

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and advice, assistance with negotiation, and, if appropriate, representation at trial to poor and low-income litigants in unlawful detainer cases. This grant will increase the availability of this program from two to five days a week. It will also add a second Trial Preparation Clinic at the courthouse, where an attorney will assess the evidence that the pro per litigant has gathered and provide further counsel and advice regarding settlement options and presentation of the case at trial.

INTERACTIVE COMMUNITY ASSISTANCE NETWORK

Legal Aid Society of Orange County

This grant will help fund a new project to assist pro pers in obtaining information on domestic violence restraining orders, unlawful detainer answers, and complaints and answers in paternity actions, in addition to creating properly formatted pleadings that can be filed with the court through Internet-interactive and self-help kiosk-based systems.

CENTER FOR LEGAL ASSISTANCE

Legal Aid Society of San Diego

This new project will supplement the services of the family law facilitator in the South County and East County courts, where the facilitator's services are provided only part-time, so that services will now be available five days a week in one court and four days a week in the other. The additional staff will be bilingual in Spanish, a resource not currently available in the facilitator's office.

MOTHER LODE PRO PER PROJECT

Legal Services of Northern California

In this new project an attorney and a paralegal will travel on an established schedule to nine different pro per service centers that will be established in five counties: Placer, El Dorado, Alpine, Amador, and Calaveras. Services will include consultations on legal procedures, self-help materials, and assistance with legal forms and documents in all areas of civil law, with emphasis on unmet needs in family law.

MONROE HIGH SCHOOL LAW AND GOVERNMENT PROJECT

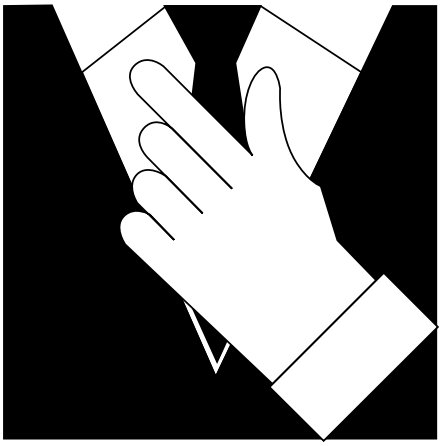
San Fernando Valley Neighborhood Legal Services

This grant will fund a project of the Van Nuys Court Community Justice Center to operate at Monroe High School's Law and Government Magnet. The Monroe Center provides a unique opportunity for the courts, legal services, and the bar to partner with the schools to expand equal access to the justice system. Services will be provided in civil matters other than family law; special programs will address such needs as responses to unlawful detainers, filing wage claims, effective use of small claims court, bankruptcy filings, and consumer problems.

SELF-HELP ACCESS CENTER

Sonoma County Legal Aid

The Self-Help Access Center, located at the Sonoma County main court complex, will provide direct and immediate assistance to qualified low-income litigants as well as referral to more in-depth existing services provided by affiliate organizations. The center will feature a comprehensive library of self-help materials, pro per instruction packets, and videotapes, as well as periodic information workshops and clinics conducted by volunteer attorneys. The center's staff attorney will provide individual consultation and advice as appropriate. Required legal forms will be prepared by the center coordinator assisted by interns. Initially services will be offered in the areas of family law, elder law, housing, personal injury, and probate. It is anticipated that a satellite office will be established at the Petaluma branch court facility to serve south county residents in the future.



FAMILY LAW PRO PER CLINIC EXPANSION (SACRAMENTO COUNTY)

Voluntary Legal Services Program (VLSP) of Northern California

This grant is for the expansion of an existing project in which the Voluntary Legal Services Program and the Family Law Facilitator's Office jointly provide family law assistance at a Family Relations Court Self-Help Center. The grant will help establish a satellite clinic at a community center located in a low-income area of south Sacramento. At the satellite clinic, VLSP staff and volunteers will provide legal advice and assistance in completing Judicial Council forms on all family law issues except temporary restraining orders, and court staff will provide the on-site endorsement.

Since Equal Access Funds are not available to courts, the collaborating courts were provided grants from JAMEF to help implement the self-help centers.

We encourage the court community to work closely with these new partners to help serve the large numbers of unrepresented litigants requesting assistance from the courts.

For more information regarding the Equal Access Program, contact Bonnie Hough at 415-865-7739 or by e-mail at bonnie.hough@jud.ca.gov.

New Family Law Information Centers

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• Centinela Valley Victim Offender Restitution Services (VORS), Los Angeles County;
• Victim Offender Reconciliation Program, Mendocino County (VORPMC);
• Victim Offender Reconciliation Program (VORP), Orange County;
• Restorative Justice Program (RJP), Santa Barbara County;
• Victim Offender Mediation Program (VOMP), Santa Clara County; and
• Redwood Empire Victim Offender Reconciliation Program (REVORP), Sonoma County.

The study's goal was to determine if the six programs produce results that meet or exceed performance benchmarks set forth in article 29, section 992 (a)–(f) of AB 320.

In each evaluation, a group of juveniles who had participated in the VORP program (treatment group) was compared with a group of juveniles who had not. Eight of the key evaluation questions and a summary of the results at each site are presented in the table below.

The evaluations demonstrate that the programs can produce the desired effects. In most cases they exceeded the standards for performance set forth in AB 320. In brief,

1. When the VORP groups were matched against comparison groups, they exceeded the amount of restitution collected from the comparison groups by much more than the 40 percent benchmark set forth in AB 320.

• When matched against the comparison groups, an additional 5 to 178 percent of the VORP groups (depending on the site) were required to pay financial restitution;
• The average amounts of money collected at each site ranged from $29.62 to $271.15, depending on the site. These amounts exceeded the amounts collected from the comparison groups by from 158 percent to over 1,000 percent; and
• The average amount of restitution collected from juveniles in the VORP groups who were obligated to pay restitution ranged from $82.50 to $542.30. These amounts exceeded by 95 percent to over 1,000 percent depending on the site, the amount of restitution collected from juveniles in the comparison groups who were also obligated to pay restitution.

2. Five of the six programs achieved recidivism rates at least 10 percent lower than those in the comparison groups—the benchmark set forth in AB 320.

• Recidivism rates ranged from 21 to 105 percent *less* than in the comparison groups at five of the six sites; and
• The recidivism rate of the VORP group was 46 percent *higher* than the rate of the comparison group at one site, but, owing to the small sample, the result was not considered statistically significant.

3. The programs garnered satisfactory rates of participation by victims and offenders who were referred to them.

• The number of victims who declined to participate ranged between 10 and 33

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EVALUATION OUTCOMES, BY VORP SITE

Success Factors / Evaluation Questions	VORP Sites: Los Angeles	Mendocino	Orange	Santa Barbara	Santa Clara	Sonoma
1. Did the restitution collected from the VORP participants exceed that collected from the comparison group by at least 40 percent?	yes	yes	yes	—	yes	yes
2. Was the recidivism rate of the VORP participants at least 10 percent lower than that of the comparison group?	yes	yes	yes	no	yes	yes
3. How many offenders and victims participated in the VORPs?	629	101	296	105	124	140
4. How many offenders declined to participate in the VORPs?	8%	22%	<29%	39%	6%	23%
5. How many victims declined to participate in the VORPs?	14%	32%	<33%	12%	10%	29%
6. How satisfied were victims and offenders in the VORP programs?	very	very	very	very	very	very
7. How many offenders and victims completed the VORP programs?*	70%	93%	—	71%	—	84%
8. What additional success factors were identified and tracked by the VORP programs?†	2	3	3	2	4	2

*Completions as a percentage of mediated agreements.
†Each program reported additional success factors. These factors are discussed in item 5 on page 3.

Vorp Study

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percent of total referrals to the VORP, depending upon the site;

• Depending upon the site, between 6 percent and 39 percent of the offenders who were referred to the program declined to participate; and

• Depending on the site, between 70 percent and 93 percent of the mediated agreements were completed.

4. The programs received impressive participant satisfaction scores from victims, offenders, parents or guardians, mediators, probation officers, judges, and other justice system personnel.

• Measures of general satisfaction for both victims and offenders uniformly scored above 90 percent; and

• Satisfaction with the programs turned out to be one of the strongest measures of success.

5. The programs reported additional indicators of success.

The evaluators listed additional elements of the programs that contributed to their success. Each program reported at least two of those elements, two reported three elements, and one reported four elements. These additional indicators of success included:

- Community service ordered and completed;
- Increasing numbers of mediations;
- Decreases in case-processing times;
- Satisfaction among mediators;
- Satisfaction among justice system officials;
- Additional survey results of victims and offenders;
- Open-ended survey responses;
- Suggestions for improvements;
- Examples of agreements contained in the mediation contracts; and
- Case examples.

To receive a copy of the complete report, contact Audrey Evje, 415-865-7739; fax: 415-865-7217, e-mail: courtinfo@jud.ca.gov

CFCC Forges Statewide Alliance

Focused on Ensuring High-Quality Court-Ordered Child Custody Evaluations and Investigations

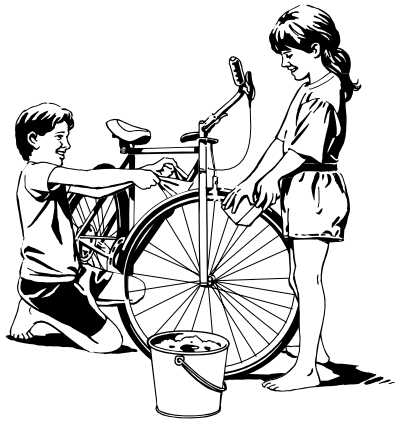
The Judicial Council of California's Family and Juvenile Law Advisory Committee and the Center for Families, Children & the Courts (CFCC) convened the second meeting of the Invitational Caucus on Court-Ordered Child Custody Evaluations and Investigations convened at the Judicial Council's Sacramento Office of Governmental Affairs on February 17, 2000. This second session continued the work begun at the caucus's highly successful July 1999 meeting to forge a statewide alliance whose goal is to ensure high-quality court-ordered child custody evaluations and investigations. Discussion among the participants laid the foundation for collaborative alliances among policymakers, community stakeholders and court representatives.

Over 30 individuals attended the meetings, including members of the Judicial Council's Family Law Subcommittee, executive directors of all of California's professional behavioral science organizations, key representatives from the state mental health professions' licensing boards, family law bench officers, family court services directors, private child custody evaluators, mental health practitioners, and lobbyists. Representatives of several state legislators and members of the Senate Judiciary Committee also participated.

The specific focus of the caucus will be on formulating collaborative court-community strategies and alliances for implementing Senate Bill 433; Stats. 1999, ch. 761, which mandates the Judicial Council to adopt a statewide rule of court by January 1, 2002, that establishes education, experience, and training requirements for all child custody evaluators in California. These standards will apply to child custody evaluators and investigators in the professions of psychology, social work, psychiatry, and marriage and family counseling.

Participants unanimously and enthusiastically supported the convening of the caucus and agreed that the issues discussed were of critical concern, not only to the participants, but also to the California families and children involved in the child custody evaluation process. In particular, commentators cited the expeditious convening of such a diverse group of top-level professional leaders and policymakers and the importance of clarifying roles and responsibilities, clearing up mutual misperceptions, and developing statewide alliances for addressing the complexities of California's child custody evaluation processes, laws, and procedures.

For additional information about the Invitational Caucus or implementation of SB 433, you may contact Susan Hanks, Ph.D., Coordinator for Special Services, Center for Families, Children & the Courts, at 415-865-7741.



New Family Law Information Centers

The Judicial Council of California has established pilot projects for family law information centers in Los Angeles, Fresno, and Sutter counties.

Los Angeles had 134,443 new family law filings in fiscal year 1998–1999. In 85 percent of these cases at least one party was not represented by counsel. The demand for family law facilitator services is so great that litigants line up every morning outside the facilitator's office before it opens, and the receptionist frequently books a month's worth of appointments in two days.

To address the backlog, Los Angeles County will establish family law information centers at the Central and Norwalk branches of the superior court. Two paralegals and a supervising attorney will provide general assistance to unrepresented litigants on family law issues, provide referral services for all family law agencies, develop a resource library with videos and how-to materials for litigants, assist litigants in preparing orders after hearing, and provide community education and outreach.

In Fresno County, the family law information program will offer services in seven outlying courts and at the Civic Center of Fresno County, in conjunction with the family law facilitator and a new domestic violence project sponsored by Central California Legal Assistance. The services will target low-income litigants in traditionally underrepresented groups, including non-English-speaking residents, migrants, refugees, and those for whom travel to the Civic Center is difficult. The program will provide culturally tailored brochures, how-to handouts, workshops, and one-on-one services to litigants.

Sutter County's family law information center will provide services to residents of Sutter, Yuba, and Colusa counties. The cornerstone of a new family resource center, it will offer one-on-one legal assistance, daily information clinics, computer workstations to allow pro per litigants to prepare forms and do basic legal research, a room for mediation, and a pro per legal research/law library with a "quiet work area."

Contact: Bonnie Hough, Center for Families, Children & the Courts, 415-865-7739.

Judicial Council's Report on California's Child Support Commissioner System Is Published

California's child support commissioner system, which consists of child support commissioners and family law facilitators, was implemented in 1997 by Assembly Bill 1058 (Speier); Stats. 1996, ch. 957, to improve the speed, efficiency, and cost-effectiveness of the child support system as well as reduce conflicts between parties. In 1998, Assembly Bill 2498 (Runner); Stats. 1998, ch. 249, directed the Judicial Council to conduct an evaluation of the child support commissioner system. The Judicial Council released the report describing the findings of that evaluation on May 1, 2000.

Eleven counties (which account for 61 percent of California's population) were selected to evaluate their child support commissioner systems in depth. Court data were collected and analyzed from the study counties that had automated systems. Six focus groups comprising child support commissioners, family law facilitators, and district attorneys from the study counties were conducted by independent, non–Judicial Council researchers to provide qualitative data on program strengths and weaknesses, barriers to optimal program performance, and strategies to overcome barriers and improve the program.

In addition, all counties' child support commissioners and family law facilitators were surveyed to document local changes or enhancements to Title IV-D child support court and family law facilitator resources, facilities, services, and procedures as a result of AB 1058. Information on child support commissioners' and facilitators' professional qualifications, experience, and development activities also was collected, and customer satisfaction data were analyzed.

Following two years of statewide implementation, researchers identified these strengths of the child support commissioner system:

- Systemwide structural changes have increased courts' capacity to process child support cases. Child support commissioners are established in all California counties but one, and family law facilitator offices are in place in every county. Changes in forms and procedures resulting from passage of AB 1058 also have increased efficiencies in case processing.
- Child support commissioners and family law facilitators have many years of specialized experience: on average, commissioners have practiced family law for approximately 13 years, and family law facilitators have practiced for approximately 12 years before assuming their roles in this program.
- The family law facilitators' assistance has significantly increased families' access to the child support process.

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Report on Child Support Commissioner System

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• Speed and efficiency in processing child support cases in courts were improved as a result of the family law facilitator's assistance. Also, because child support commissioners are dedicated to hearing Title IV-D cases, they have the knowledge, expertise, and consistency that allow them to institute efficiencies in their courts.
• Conflict between parties was reduced as a result of family law facilitators' efforts to educate litigants on the child support process and to help parents work out child support agreements.
• Good working relationships between district attorneys, child support commissioners, and family law facilitators have led to greater efficiency and less conflict among these system partners.
• Focus-group participants reported that the child support system is fairer as a result of the child support commissioner system's efforts to give time and attention to Title IV-D matters and the assistance that family law facilitators provide to noncustodial parents.
• Available data on customer satisfaction show an almost totally positive response.
• Focus-group participants perceived the child support commissioner system to be cost-effective because of the efficiencies it created in the overall child support system. The child support commissioner system also builds on existing resources, and two-thirds of its program costs are federally funded.
• The education and training opportunities provided by the Judicial Council contribute to the professional development of child support commissioners and family law facilitators and encourage more uniformity and the development of best practices.

Weaknesses of the child support commissioner system itself centered on the lack of uniform procedures across counties, which was identified as an impediment to fairness, access, and efficiency. Some role conflict among district attorneys, child support commissioners, and family law facilitators was also noted. Finally, the filing fees and the economic consequences of missing work to attend court were viewed as barriers to greater participation in the child support process, particularly with respect to low-income parents.

Other weaknesses identified by focus-group participants affected the optimal performance of the child support commissioner system but were not directly attributable to it. These were due to the lack of a statewide automated child support information system and the federal penalties assessed because of it; large arrearages that are difficult, if not impossible, for low-income obligors to pay; the complexity of child support issues in contrast to the inability of many unrepresented litigants to resolve them without substantial help; and the low status of child support cases in courts and in district attorney offices. As an outcome of the evaluation process itself, researchers found that improvements are needed in court data systems to generate reliable management information.

The evaluation concludes that the objectives of the child support commissioner system are being met, and that courts, through efforts to streamline the process and help litigants through it, play a significant part in improving the overall child support system. That larger system is influenced by much more than what occurs in court, however.

The report's recommendations are intended to encourage certain structural changes to improve system efficiency, particularly with respect to system automation and uniformity:

1. The Judicial Council has instituted the Judicial Branch Statistical Information System (JBSIS), a process for defining, collecting, and reporting data from courts to the Administrative Office of the Courts. Because accurate collecting and reporting of data depend on uniform data definitions, it is recommended that the Judicial Council direct staff to do the following to ensure that JBSIS reports are useful for state program monitoring, evaluation, and analysis:
• Work with the courts, including child support commissioners, family law facilitators, and the new California Department of Child Support Services (CDCSS) to ensure that data definitions are uniform.
• Provide assistance in training court personnel to enter and report the defined data accurately in order to meet JBSIS requirements.

Additionally, staff should continue to work with the family law facilitator program to collect uniform, statewide data.

2. Coordination of the courts, the CDCSS, and the Franchise Tax Board is essential to ensure the success of the statewide automated child support data system currently under development. To maximize the efficient handling of child support cases, an automated interface between the statewide automated child support data system and the courts' automated systems should be developed. The courts, CDCSS, and the Franchise Tax Board should work cooperatively on system design and implementation to ensure that the child support data system will be capable of electronically exchanging data to the maximum extent feasible.

3. The Legislature has mandated that CDCSS develop uniform forms, policies, and procedures for the child support program. Such uniformity not only is essential to the success of the statewide automated system, but it also ensures the fairness of a statewide child support commissioner system that consistently applies the same rules and procedures in each of its jurisdictions. The Judicial Council is responsible for the creation and adoption of court forms and rules of court for the child support commissioner system. The Legislature has directed CDCSS to solicit input from a wide variety of participants in the system. Child support commissioners, family law facilitators, and other court staff need to be actively involved in this process.

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Report on Child Support Commissioner System

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To that end, the Judicial Council is working with CDCSS to convene a statewide conference in June 2000 to address uniformity issues. The invitees to the conference include child support commissioners, Title IV-D court clerks, family law facilitators, and representatives of the district attorneys' offices, as well as representatives of CDCSS, the Franchise Tax Board, and the federal Office of Child Support Enforcement.

4. Existing law makes visitation timeshare a critical component of the child support guideline. Federal funds, which make up 66 percent of the funding for the child support commissioner system, are limited to child support only and cannot be used for custody and visitation issues. A consistent theme in the evaluation focus groups was that parents would like to resolve all their child-related concerns at one time. Therefore, it is recommended that the CDCSS ask the federal Office of Child Support Enforcement to expand the use of Title IV-D funds to assist parents in resolving custody and visitation issues connected with their child support cases.

5. The evaluation workgroup recommended that evaluation of the child support commissioner system be an ongoing endeavor for program improvement. Evaluations are resource intensive. The Judicial Council recommends that the Legislature provide $300,000 per year for ongoing evaluation of the program. Issues for further study may include:

• Increased collections through participation

Most child support commissioners, family law facilitators, and district attorneys who participated in the evaluation believe that a noncustodial parent who understands and participates in the process to determine support payments is more likely to pay support than a noncustodial parent who does not participate in the process. A longitudinal study would be needed to test this hypothesis.

• Fewer continuances

The family law facilitators, child support commissioners, and district attorneys who participated in this evaluation believed that the assistance provided by family law facilitators resulted in fewer continuances and cases taken off calendar. Courts would need to develop systems to document these outcomes.

• Unmet needs of litigants

It appears that the needs of unrepresented litigants are not being met by the existing level of funding for family law facilitator services. Long lines or long waits for appointments to see facilitators have been reported. There is also concern that the level of service currently available to persons whose primary language is other than English may not be adequate. An additional $2,074,000 was appropriated for the facilitator program by SB 240 (Speier); Stats. 1999, ch. 652, but it had not been allocated to the courts at the time the data for this evaluation were collected. Therefore, empirical studies of unmet needs should be conducted to determine the level of resources required to ensure that family law facilitator services, often the gateway to the courts for resolving child support issues, meet the needs of the community.

There also will be costs with regard to developing automated interfaces between the statewide automated child support data system and the courts, but those costs cannot be determined until the statewide system is designed and specifications are known.

CHILD SUPPORT UNIFORMITY CONFERENCE

The AB 1058 Child Support Project of the Center for Families, Children & the Courts, in conjunction with the new Department of Child Support Services, will be convening a conference on improving uniformity in statewide procedures for the establishment, modification, and collection of child support.

The conference will be held from Wednesday, June 28 until noon on Friday, June 30. Each of the 58 counties is receiving funding from their AB 1058 grants to pay expenses for a team of participants. Ideally, each county team will consist of the family law facilitator, a court clerk who works with child support issues and documents, a child support commissioner, a legal representative from the local Title IV-D agency, and an administrative representative from the IV-D agency. Representatives from the Judicial Council, the Department of Child Support Services, the Franchise Tax Board, and the federal Office of Child Support Enforcement are scheduled to attend the conference.

One of the meeting's key objectives is to seize the opportunity to get together and discuss the "new vision" for child support and how all these components can work together to make it a success. A likely agenda item is the different ways local agencies and courts do business. Participants will look at the different ways in which we might do things more uniformly throughout the state and how we can reinforce the "team approach" as we deal with the daily challenges child support presents to all stakeholders. Among the agenda items will be a discussion of how state and local IV-D agencies as well as the courts and family law facilitators might be able to participate in the policy/rule-making process regarding child support.

For further information about the conference, please contact George Nielsen, 415-865-7739.

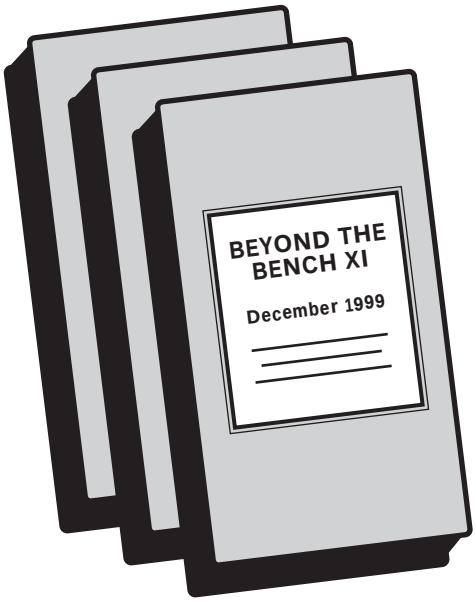
Videotapes

AVAILABLE FROM THE CENTER FOR FAMILIES, CHILDREN & THE COURTS

In the past few years, the Center for Families, Children & the Courts, with the assistance of the terrific audio-visual crew at the Center for Judicial Education and Research (CJER), has videotaped several training programs. We are pleased to make some of the best presentations in our collection available. Also available are copies of outstanding videotapes on children in the foster care system from the Dave Thomas Foundation for Adoption, which graciously has given the Center permission to distribute them.

Individual copies of videos are free of charge (limit 3 per order). Contact: Frank Gahub, 415-865-7739; fax: 415-865-7217; e-mail: frank.gahub@jud.ca.gov.

For more information about any of the videos or other CFCC resources, contact Christopher Wu, 415-865-7739; fax: 415-865-7217; e-mail: christopher.wu@jud.ca.gov.



BEYOND THE BENCH XI DECEMBER 1999	Presenter(s)	Length (Mins.)
1. Juvenile Violent Crime Trends	Howard Snyder, Ph.D.	41
2. Court/Agency Relations	Hon. Richard Fitzgerald, Hon. Nancy Salyers, Brenda McWaters	70
3. Keynote Speeches • How America Got to Be So Violent • The California Children and Families Commission • Aging Out of Foster Care	 Fox Butterfield, Ph.D. Jane Henderson, Ph.D. Jason Fiorillo, J.D.	 97 (total)
4. Emancipation From Foster Care	Bill Corwin, J.D., Avril Dingle, J.D., Steve Sanders, Youth from California Youth Connection	64
5. Together or Not Together, That Is the Question: Siblings in Foster Care	Hon. Arnold Rosenfield, Anthony Urquiza, Ph.D.	65
6. Breaking the Link Between Child Maltreatment and Delinquency	Shay Bilchik, J.D., Michael Petit	61
7. Matching Children's Needs and Strengths to Placement Options in Delinquency Cases	James Bell, J.D.	60
8. Making Adoptions Work: Pre- and Post-adoption Services	Helen Cavanaugh-Stauts, J.D., Carol Bishop, Delores Covington	77
9. Court Improvement Roundtable — Best Practices in Dependency Courts	Hon. Leonard P. Edwards, Hon. Dale Koch, Hon. Patricia Macias, Mark Hardin, J.D.	

BEYOND THE BENCH X DECEMBER 1998	Presenter(s)	Length (Mins.)
1. Keynote Speeches • Saving the World One Child at a Time • Educating California's Children	 Naomi Haines Griffith Delaine Eastin	118 (total)
2. Improving Dependency Courts, Promoting Adoptions and Permanency, and Implementing the Adoptions and Safe Families Act of 1997 (ASFA) (parts 1 and 2)	Joseph Kroll, Mark Hardin, J.D.	145 (2 tapes)
3. Coordinated and Unified Family Courts (parts 1 and 2)	Hon. Robert Page, Hon. Steven Howell, Ray Merz	140 (2 tapes)

CHILD ADVOCACY TRAINING PROJECT SANTA BARBARA, APRIL 1997	Presenter(s)	Length (Mins.)
1. Representing Children in Juvenile Dependency and Family Court (video and panel discussion)	Hon. Patricia Bresee, Hon. Katherine English, Hon. William Gordon, Lucia Tebbe, J.D.	81
2. Reasonable Efforts: A Judge's View of Legal Advocacy	Hon. Katharine English	53
3. Interviewing Children and Child Development	Ian Russ, Ph.D.	78
4. Reasonable Efforts and Permanency Planning	Hon. Patricia Bresee	53
5. Substance Abuse: Addiction and Treatment	Kathleen West, M.P.H.	78

DAVE THOMAS FOUNDATION FOR ADOPTION	Description	Length (Mins.)
1. Through the Eyes of the Child	Judges, other experts, and children discussing permanency	20
2. The Adoption and Safe Families Act of 1997 (ASFA): • Creative Strategies for Permanency • Fast Track to Permanency • How Judges Can Make It Happen • Why Legislators Must Make It Happen • Why Legislators Must Make It Happen (abridged) • The Essential View of Child Advocates	 Policy and advocacy overview Abridged overview Focus on the judiciary Focus on the Legislature Shorter version of above Focus on CASAs and attorneys	 20 10 23 19 10 25

Pending Legislation

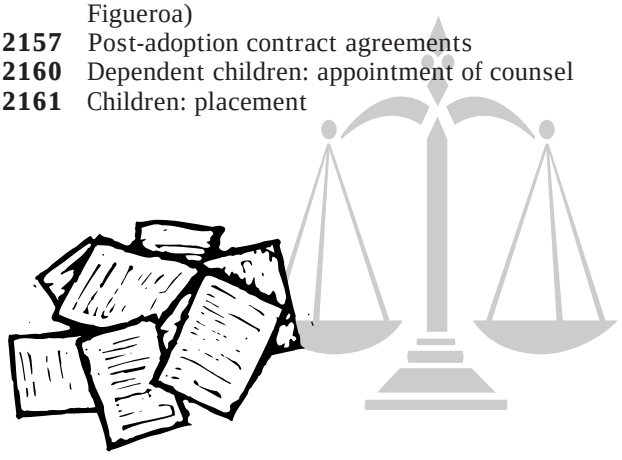
The following are some of the pending family and juvenile law bills for the 1999–2000 legislative session. To obtain additional information on individual bills of interest, visit the California Official Legislative Web site located at *www.leginfo.ca.gov/*.

ASSEMBLY BILLS

AB 205 Domestic violence: name change: stalking
AB 788 Juvenile court law: purpose
AB 1358 Child support
AB 1614 Child support
AB 1705 Domestic violence courts
AB 1716 Dependency proceedings: paternity
AB 1724 Child abuse victims
AB 1754 Domestic violence courts: departments
AB 1826 Family Violence Prevention and Intervention Program
AB 1886 Domestic violence: batterer's treatment program training requirements
AB 1917 Domestic violence prevention instruction
AB 1920 Marriage fact sheet
AB 1987 Dependent children: siblings
AB 1990 Domestic partners
AB 1995 Child support: amnesty program
AB 2003 Arrests
AB 2009 Firearms
AB 2012 Foster care providers: educational support requirements
AB 2034 Mental health funding: local grants
AB 2040 Parent and child: assistive reproductive technologies
AB 2063 Elder abuse
AB 2081 Child support: orders and enforcement
AB 2082 Child support: assignment
AB 2130 Family health insurance coverage
AB 2210 Foster care: disclosure information
AB 2211 Domestic partnerships
AB 2278 Substance abuse: foster care
AB 2307 Children: foster care
AB 2315 Children of incarcerated parents
AB 2316 Study on children of incarcerated parents
AB 2322 Spousal support
AB 2357 Victims of Domestic Violence Employment Leave Act
AB 2375 Juveniles: special education
AB 2421 Parentage: parent and child relationship
AB 2433 Adoption of children
AB 2464 Child support: modification
AB 2515 Office of Child Abuse Prevention: juvenile crime prevention program
AB 2524 Emotionally disturbed minors: services
AB 2539 Maintenance of codes
AB 2555 Termination of parental rights: jury trials
AB 2589 Domestic violence: interpreters
AB 2623 Foster parents: background checks
AB 2668 Support orders: modification
AB 2776 Juvenile courts: imprisonment
AB 2913 Support orders: earnings assignment orders
AB 2914 Temporary restraining order
AB 2915 Child custody: child's counsel
AB 2920 Foster care placements
ACR 142 Child abuse and neglect (chaptered 5/1/00; res. ch. 52)

SENATE BILLS

SB 31 Firearms: delivery and transfer; registration card
SB 442 Capacity to marry: post-death nullity of marriage: conservatorships: paternity
SB 1173 De facto parents: visitation rights
SB 1340 Domestic violence courts
SB 1376 Child support: definition of income
SB 1391 Juvenile court hearings
SB 1579 Foster care: Early Start to Emancipation programs
SB 1611 Juvenile: juvenile justice commissions and juvenile court orders
SB 1615 Family law: court files
SB 1716 Child custody proceedings: sexual abuse allegations
SB 1739 Homeless youth emergency services project
SB 1791 Child support: administrative orders: state support registry
SB 1855 Placement of minors: reimbursement
SB 1913 Compulsory education
SB 1946 Kinship support services
SB 1951 Child abuse: probation officers
SB 1954 Juvenile: facilities
SB 1980 Foster care
SB 2043 Termination of parental rights: notice
SB 2045 Child support: national medical support notice
SB 2055 Child support enforcement
SB 2091 Children: foster care
SB 2092 Conservatorships: minors
SB 2124 Child custody mediation (dropped by Senator Figueroa)
SB 2157 Post-adoption contract agreements
SB 2160 Dependent children: appointment of counsel
SB 2161 Children: placement

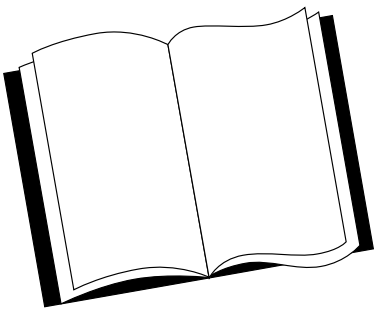


Competency-Based Training Manual

FOR SUPERVISED VISITATION PROVIDERS

The Clearinghouse on Supervised Visitation has produced a training resource manual for supervised visitation providers. *Supervised Visitation: A Competency-Based Training Manual for Florida's Supervised Visitation Centers* was a collaborative effort of the Florida Department of Children & Families, which sponsored the grant project; the Florida Clearinghouse on Supervised Visitation, which produced the manual; the Institute for Family Violence Studies in the Florida State University School of Social Work, which houses and supports the Clearinghouse on Supervised Visitation; the U.S. Department of Health and Human Services, Office of Child Support Enforcement, which sponsored the Access and Visitation Grant Program from which Florida received funding to increase access and visitation services between nonresidential parents and their children; and providers of supervised visitation services throughout Florida.

The 11 chapters of the manual provide background information to assist staff and volunteers in providing effective visitation services. Topics include the court system, physical and sexual abuse, neglect, domestic violence, separation and divorce, mental illness, working with culturally diverse families, and ethical dilemmas for visitation service providers.



Each chapter contains instructional objectives, a presentation outline and time frames, detailed background on each topic, and a quiz to assess individual competency. A full-color video explaining the process of supervised visitation to parents in family court and dependency cases is available for $25.

The Clearinghouse on Supervised Visitation was established in 1996 as a component of the Institute for Family Violence Studies in the School of Social Work at Florida State University. The clearinghouse's mission is to serve as a statewide and national resource on supervised visitation issues by providing technical assistance, training, research, and legal assistance to supervised visitation providers, the judiciary, and referring agencies. A national domestic violence advisory board to the clearinghouse was established in 1999.

The training manual is available to non-Florida programs for $75. To obtain a copy call the clearinghouse at 850-644-6303, fax requests to 850-644-9750, or complete an order form at the clearinghouse's Web site at familyvio.ssw.fsu.edu. Send your checks, payable to the Florida State University, to: Florida Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University, Tallahassee, FL 32306-2570.

For additional information about the training manual, please call Karen Oehme, Program Attorney, at 850-644-6303 or e-mail her at fsuvisit@aol.com.

This article was extracted from the Clearinghouse's pamphlet and newsletter, "The Networker," Spring 2000 issue. It is reprinted, with changes, by permission of M. Sharon Maxwell, Ph.D., L.C.S.W., Executive Director, Florida Clearinghouse on Supervised Visitation.

Editor's Note

WHAT EVENTS OR ISSUES INTEREST YOU?

What challenges are your courts facing? Do you have a new innovative program you would like to profile? Do you have questions about our programs or services? Do you need court-related information?

TELL US!

Center for Families, Children & the Courts

Update

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Batterers' Treatment

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Another dynamic emerged that provided impetus to the notion of intervening with male perpetrators. Shelters began to form coalitions and advocates began to talk about their cases, looking for common denominators and creative approaches. In some cases, women residing at different emergency facilities shared, not only common stories, but also a common perpetrator. The batterer had moved from one relationship to another. A decision was made to begin a counseling program for the male partners of shelter residents.

I had been working at the shelter as a volunteer for six months when Ms. Stahley asked me if I was interested in becoming the men's services coordinator. Ms. Stahley and the board of directors had been looking for a man to fill the position but couldn't find a qualified man who would work for $660 a month. Actually, I wasn't interested either. I had seen the aftermath of the violence directed at the women and children and could only believe that the men who could do these things were evil. However, program development was an interest of mine, and I needed a job.

In 1979, Alternatives to Violence (ATV) was developed as a program of WomenShelter. At that time, we were aware of only three programs that were doing this work. They were willing to share information, however limited, with me. These programs had structured 6- to 16-week formats. There was a heavy emphasis on patriarchy as the single cause of violence toward women by their intimates. That premise developed from the reality that men had beaten and controlled their wives for centuries with impunity; that female sexual behavior was strictly regulated in most cultures and that infidelity and multiple partners were part of male privilege. Marriage basically suspended the individuality of women and made them legally one with their husbands. It was not a quantum leap to view male power and privilege as the root cause of male violence toward women. Program content reflected that perspective.

Because Alternatives to Violence (ATV) is a program created to address the needs of battered wives, it is rooted in shelter philosophy. Women from the refuge and shelter staff were consulted in the formative stages and in ongoing development of content. Shelter philosophy resonated the "male power and privilege" theme. The women in the program had certainly run head-on into patriarchal problems—with their mates and with the criminal justice, social service, and religious institutions they encountered when looking for help. However, the women also talked about their partners as powerless emotionally, unable to express feelings, "needing help," and as victims of violent childhoods. Some of these men had substance abuse problems; others did not. Some physically or emotionally abused their children; some tried to be good parents. Some were methodical and employed many forms of abuse; others were impulsive and hit but were not insidiously and psychologically abusive. The "one size fits all" approach of a one-bullet patriarchal process theory seemed inadequate to address the issues brought to the table by the women in the shelter.

The resocialization process, "after shelter" care, and increased long-term advocacy that was becoming an ideological foundation of more effective intervention for shelter program participants seemed appropriate to apply to abusers' programs. Introduced as a 12-week program, ATV expanded to a 6-month program within months. During the next couple of years, the recommended time in-group increased to one year. Currently, we see 18 months as a minimal time, as do many other batterers' programs (Emerge, Manalive, Alternatives, LTD, and Options).

The increased time in group was a practical outgrowth of the participant's ability to change, and the change reflected in our goals. In 6 to 10 months, most of the men in group had just begun to break through their denial. They needed time to feel good enough about themselves in order to look at the harm they had done and to accept responsibility for their behavior. They needed time to internalize new ways of thinking and to practice new skills. But the really significant changes occurred when they changed their beliefs. The abusers in our programs were becoming "resocialized." They began to believe that their aggressive and controlling behaviors created fear and had to stop. They had to redefine power in noncoercive terms. Increased time in the program allowed for this transformation in thinking that reinforced the behavior change. We met with other group facilitators, who were experiencing similar outcomes.

Since the late seventies, changes in domestic violence programs have occurred at every level, including those programs targeted to batterers. Spouse abuse has become a cause célèbre. Abusers' groups have proliferated across the country. In Los Angeles County, the number of programs providing abuser counseling went from approximately 10 well-known and respected programs to 130 within 18 months. Abusers' counseling has become big business for some individuals and an ongoing issue of the heart for others. With the propagation of programs has come the cry for successful outcomes and research as well as intense scrutiny by battered

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women's advocates, legislators, and the criminal justice system. Most want to know if batterers can change and if programs "work."

What does "work" mean? What criteria do we use to measure success? Empirical, operationally defined success, clinically defined success, and the battered partner's evaluation and/or success as defined by the criminal justice system may lead to different results. Criteria for success can range from statistically significant positive change to nothing short of transformation to an "accountable" man (Hart, 1988).

The facilitators of Alternatives to Violence measure success along a continuum of qualitative and quantitative variables and on the yardstick of the individual who is in group. It is important to remember that the measures of success are very different for a battered partner and for the group facilitator. For instance, a counselor would see success when a man in group stopped hitting, but a battered woman might still feel pain and fear when he raised his voice, called her a name, gave her the "silent treatment," drove dangerously, or performed any of a number of overt or covert behaviors. The counselors do not live with their abusive clients.

Given that, some of the criteria we look for are:

a. Cessation of physical aggression
b. Recognition of nonphysical forms of abuse
c. Changes in attitude or belief
d. Acceptance of responsibility
e. Shorter, less intense outbursts with longer periods between episodes
f. The development of empathy for the victims of their abuse
g. Regular group attendance
h. Cooperation in group and compliance with group rules
i. Redefined power
j. Ability to take a time-out
k. Recognition of controlling behaviors

It may be unrealistic to expect a group that meets for approximately two hours once a week to counterbalance the attitudes most men have spent a lifetime acquiring. It would mean that they see their use of power and violence as a problem. "For men to address these kinds of questions involves a challenge to the way we are. It involves a critique of ourselves. That is first, personally; secondly, in terms of other men we are in contact with in our personal or public lives; and also, thirdly, more generally and socially, towards men as a powerful social category, a powerful social grouping" (Hearn, 1996).

There is, however, good news (depending on who is interpreting the data). In a synthesis of the literature on batterers' treatment (Davis & Taylor, 1999), there is fairly consistent evidence that it "works" on a variety of dimensions and that effects of treatment can be substantial. Clinically and anecdotally, those results are echoed over and over again. Group facilitators, as previously mentioned, recognize success in ways that may not be relevant to other agencies or institutions or the abuse victims themselves. Qualitative changes sought in a counseling environment are measured in baby steps, which combine to foment the more dramatic changes in behavior and belief. Jaime's changes, using Jaime as the yardstick, were quite remarkable.

Jaime had been a "gang banger" since his childhood and a veteran of domestic warfare since his infancy. He carried on a tradition of violence with his own wife and children. He did not want to be in a men's group, but jail had even less appeal. He decided to make the best of it — actually, that was one of the first qualitative changes. Other small changes occurred around the conversations during dinner (self-report). His wife disagreed with him. His children noticed that "Mommy didn't like what you said" and were laughing about it.

He reported that his wife wanted to take a class and he was going to stay home with his children (big attitude and behavioral change). Jaime told the group that he only had 10 groups left, but brought in a note from his wife requesting an accurate count from the group facilitators. She had counted 12 groups. Jaime was laughing when he gave us the note and said his children told him, "Mommy's not scared of you anymore."

When Jaime was 3 weeks short of completing his court-ordered 52-week program, he came into group and asked to tell a story. He said he was proud of himself and that he was thinking differently. He had a disagreement with a man at work because of the way he was talking about women. Jaime told the group, "I think that the way we talk about women affects the way we treat them."

A fundamental precept of most abusers' programs is that patriarchy is the root cause of or, at least, a significant causative factor in violence toward women. Given that, Jaime's belief change regarding the words he uses and their relationship to the way he treats his wife is a tangible, as well as a qualitative measure of success.

Alternatives to Violence is, and was in 1979, a unique program. It was one of the first programs to use a female-male co-therapy team. In 1979, the rationale for this particular form of co-leadership was also unusual:

1. Most of the men in group have been in relationships with women. We believed they needed to argue with a woman they weren't allowed to hit or psychologically abuse.
2. We believe the men should be exposed to a woman in a significantly different role and with more power than their partners had (in their eyes).
3. A good male facilitator is able to point out the subtleties of oppression and sexist attitudes to the men in the program.
4. An effective male-female team models respectful communication and power sharing.

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We quickly saw our work as more than psycho-educational, and our participants as having more than problems of patriarchal entitlement. Our goals became belief, attitude, and perceptual change as well as behavior change. We used psycho-educational, cognitive-behavioral, Gestalt, insight, psychodynamic interventions, and anything that worked. We saw our interventions as therapeutic and were willing to say so. There has been a history of antipathy between peer facilitators, licensed therapists, and victim advocates that is slowly beginning to change. Peer counselors teaming with psychotherapists are doing some really wonderful work.

Another bit of political rhetoric regarding batterers' treatment (besides calling it treatment) involves connectedness. There has been a belief that "connection means collusion." Connection does not have to mean collusion. Confrontation is more effective when connection is made. In fact, confrontation can become more direct because there is trust. A primary purpose of having teams is for facilitators to avoid their own isolation and provide a check against colluding. ATV was developed with an underlying belief that you do not teach men who abuse power to treat women with respect, become physically and emotionally nonviolent, value partnerships, and reevaluate gender roles if group facilitators abuse power. Respectful confrontation is not about browbeating.

Another unique feature of our program involves the experience of our facilitators and the size of our program. Our program remains small (four groups). The continuity of our work is supported by the continuity of our facilitation team. I do not believe there are many programs that have kept the same staff for over a decade. Our newest facilitator has worked with ATV since 1988.

Groups are not time-limited and include men who have just started the program and men who have participated for 18 months and longer. At any given time, 30 to 50 percent of the men in group are non–court-ordered. Group size is limited. In Los Angeles County, court-ordered groups with one facilitator are limited to 15 participants. There is a limit of 20 participants when there are co-facilitators. Philosophically, ATV does not support large groups. There are 10 to 13 men in each group and each group has two counselors. In a large group it is too easy for men to hide, there is too little time to practice, and there are too many men for facilitators to connect with effectively or to adequately supervise. The safety of battered women is a primary focus of an ethical batterers' program. It is certainly more cost-effective to have larger groups, and for some agencies size is a funding contingency, but it is simply more difficult to keep track and to monitor safety issues.

ATV groups are heterogeneous. Members vary in age, ethnicity, sexual preference, socioeconomic status, and educational level. Diversity within the group allows the members to address various forms of oppression (racism, classism, homophobia) as well as sexism. For instance, Black men in group have been able to relate being "one-down" in a white culture in terms of their partner's status and power in their relationships. Other men in group have been able to understand both oppressions by listening to Black, Hispanic, and Asian men speak about cultural bias.

For example, group met on the night the O. J. Simpson verdict was handed down. Racial tension was very high in Los Angeles. David, an African-American credit union employee, talked about the way he felt when his friends, White employees he had worked with for several years, ostracized him. The men in group were supportive verbally and decided they would write a letter to the editor talking about domestic violence and oppression. They were empowered and gave David the "gift" of empathy, even though the letter was never published. Empathy is a core issue in the Alternatives to Violence program. Men in the abusers' program generally learn to empathize with themselves before empathizing with anyone else. They often see themselves as victims. Empathy tends to trickle down to the other men in their group, then to their children, and lastly, to their partners.

Another unique feature of ATV is the contract. It is short. There are very few rules. Problems with individual members are handled individually. Policy is not created based on a rarely occurring infraction. The idea is to approximate a healthy family. These men are more comfortable in a structured environment than they are in a fluid, flexible, and changing situation. A healthy family is not rigid and unexpected events occur frequently. ATV groups are places for men to practice living in an ever-changing family.

Victim contact is made at the intake session. The victim and perpetrator are invited in together (if they are living together and the abused partner feels comfortable), but interviewed separately. If the survivor does not want to attend, she is interviewed by phone or sent a letter. The victim's input is critical. It creates a context for the facilitators, adds vital information about the perpetrator that lays the foundation to assess dangerousness, often breaks the victim's own isolation (as shelter information is given), and creates a link between the abused partner and the batterers' group facilitator. The information obtained during this process has proven more valuable than any other obtained (e.g., police or medical reports).

We have had no negative feedback or repercussions as a result of this intake procedure. What has resulted, however, is that partners of our clients have felt free to call us with their concerns and we have been able to address them in-group. ATV also hosts a picnic or holiday party once a year, which the partners and children of clients are invited to attend. Because more of the

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partners have contact with the group facilitators, they often choose to attend. This tradition started over 18 years ago and has been successful from a variety of perspectives:

1. The men are seen interacting with their partners and/or children in an informal setting.
2. The partners and children have informal access to the facilitators.
3. The men have responsibility for organizing the event and bringing the food (buying it or preparing it).
4. The family views the facilitators as people they can trust and are more likely to talk to them in crisis or with concerns.
5. The men believe they are human beings in the therapists eyes, and not just wife beaters or criminals. We are able to see their strengths as well as their weaknesses.
6. We have gotten very positive feedback from the partners of our clients.

Facilitators in our program have strong community and shelter connections. These connections stem from our shelter origins and the belief that a coordinated community response is the most effective intervention in partner violence. The ability to respond effectively is predicated on a program's ability to know and access community resources. Meeting with city prosecutors, judges, police officers, clergy, children's advocates, battered women's advocates, probation officers, representatives from children's services, etc., makes it possible to understand the limitations and abilities of each group.

Coalition building is not only a goal for the counselors of our program; it is also an objective for the group itself. Group can expand a man's social network, diffuse the emotional dependency he focuses on his partner, and provide numerous sources of feedback. Most violent men feel guilt and shame about their abusiveness, which tends to escalate their rage at their partners. A working group allows men to disclose their violent thoughts and behavior and receive confrontation and support to change. In an environment that supports an honest appraisal of their actions, shame is reduced. And when shame is reduced, the men are more able to confront their own abusive behavior, take responsibility for it, and feel empathy for the people they've injured.

The context of most intervention programs is psycho-educational. The implication is that men learn to be violent and controlling and that they can unlearn these destructive patterns. This does not mean that therapy does not happen in group—it does. And it must. Most counselors believe that abused children or those exposed to domestic violence experience some long-term effects. Children in shelters often require therapy. Most batterers are those children as adults.

Over the years, an evolution in thinking about batterers has occurred. They are not all just "normal" men acting out their sexism. Don Dutton describes some batterers as psychopaths, overcontrolled and cyclically/emotionally volatile (Dutton, 1997). Daniel Sonkin has described men with affective disorders (e.g., depression, bipolar) and personality disorders (borderline, narcissistic, antisocial) (Sonkin, 1995); (see also Holtzworth-Munroe & Stuart, 1994). Therapeutic issues and sexism are not mutually exclusive. Both can be confronted in an abusers' group.

Battering men and women (we now have one women's group) can and do change as a function of their participation in an intervention group, but their change is not a cure; it is more analogous to recovery. Men who have a pattern of chronic aggression do not change without relapse. Recidivism of some kind is part of the process.

Mitch came into our program after he was arrested for an assault on his wife that left her bleeding and unconscious. He was angry, felt remorse, and blamed his wife almost simultaneously, and did not want to be in the program. He was a young man, extremely rigid and hostile. He opened up a little at a time, but it was months before he really talked about the night he kicked his wife into the car. He began to look at his controlling behavior — the way he talked down to her, scowled at her, and intimidated her into silence. One night he talked about how she stood up to him that week. He smiled and felt relief. That was a real beginning for him in many ways; maybe one of the first times he didn't feel like the bad guy. He came to group every week for over two years.

He's back in group now, three years after his first attempt at nonviolence. He didn't hit her this time. He threatened her and she believed him. He was rearrested, but he came into group differently from his first time. Mitch told the men he should have seen the buildup; his wife had, and she wanted him to rejoin group. He had needed a "tune-up." Mitch said that he thought he had really changed because he didn't physically attack her. Then he looked at her and he saw the fear in her face. He told the men that nonphysical violence was just as bad and how terrible he felt for hurting her again, betraying her trust. He is working hard again. For Mitch, group will be a touchstone, a safe place. He knows he may need a group on and off throughout his life. He is one of many.

Batterers' programs are part of the larger social movement to end violence

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and the inequitable treatment of women. But such programs are only one part of a much larger network of intervention. They are not cure-alls. They have successes, which certainly keep many of us doing the work. They are links in the chain. They are a possibility for change.

This article was adapted from, with permission, Batterers' Treatment: Observations from the Trenches. *The full version of this article is to be published by Haworth Maltreatment and Trauma Press in* Batterer Intervention: Current Research, Issues, and Implications for Standards and Policies *by R. Geffner and A. Rosenbaum. Opinions expressed are not necessarily those of the Judicial Council of California*

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Delinquency Case Summaries

CASES PUBLISHED FROM JANUARY 14, 2000 THROUGH APRIL 30, 2000

In re Humberto O. **(2000) Cal.App.4th 95 [Cal.Rptr.2d 248; 2000 Daily Journal D.A.R. 3266]. Court of Appeal, Second District, Division 3.**

The juvenile court granted a child's motion to suppress as evidence a dagger found during the search of his backpack when he was arrested for a truancy violation and dismissed the Penal Code section 12020 (carrying a dirk or dagger) petition. Three police officers had been on juvenile patrol when they saw the child walking down the street several miles from the local high school. The officers suspected the child was truant because of his backpack, youthful appearance, and close proximity to the school. The child told the officers that he attended the local high school and was supposed to be in class. The police officers planned to handcuff the child, put him in the patrol car, and transport him back to school. After a pat-down search of the child's person, the officers searched the child's backpack and found a dagger. The juvenile court found that the child had not given permission for the officers to search the backpack and therefore granted the child's motion to suppress. The People appealed.

The Court of Appeal reversed the judgment of the juvenile court. It held that that the search of the child's backpack was lawful because it was incident to the child's arrest pursuant to the Fourth Amendment doctrine that an officer may conduct a contemporaneous warrantless search of the arrestee's person and the area within the arrestee's reach. (*People v. Ingham* (1992) 5 Cal.App.4th 326, 330, 6 Cal. Rptr.2d 756.) If a child is truant and fails to provide an excuse for his or her absence from school, the police have probable cause to make an arrest under section 48264 of the Education Code. In other cases, searches of backpacks and bags have been upheld when a person is lawfully arrested. In this case, the child had access to his backpack both before he was handcuffed and presumably after he was released to enter his school. Therefore, because the child had access to the dagger, exigent circumstances existed even after the child was handcuffed. The appellate court held that the dagger was improperly suppressed.

In re Devon C. **(2000) 79 Cal.App.4th 929 [94 Cal.Rptr.2d 513]. Court of Appeal, Second District, Division 3.**

The juvenile court adjudicated a child as a ward and placed him on probation for admitting to a police officer that he possessed a firearm. The child had been riding his bicycle on the sidewalk without a helmet when the police stopped him. As the officers neared the child, he admitted to having a gun. The child contended that the failure to wear a bicycle helmet on the sidewalk was lawful. and therefore the police had violated his Fourth Amendment rights by stopping him. The child filed a motion to suppress the firearm because it was the fruit of an illegal detention. The juvenile court denied the motion to suppress.

The Court of Appeal affirmed the juvenile court's denial of the child's motion to suppress the firearm. A person under 18 years of age shall not operate a bicycle upon a street or bikeway without wearing a properly fitted and fastened helmet. (Veh. Code, § 21212(a).) The child argued that a sidewalk is not considered a "street" as defined in the Vehicle Code. The appellate court agreed with the prosecution that because the child was riding on a sidewalk, defined by Vehicle Code section 555 as a "portion of the highway," and the terms "street" and "highway" are synonymous according to Vehicle Code definitions, the child was riding on a "street." Therefore, the child had violated Vehicle Code section 21212(a). Also, the appellate court noted that the purpose of the statute was to protect children from bicycle-related head injuries regardless of where they occur. The detention of the child was lawful, and therefore the subsequent search and seizure of the gun were not violations of the child's Fourth Amendment rights.

In re Kenny A. **(2000) 79 Cal.App. 4th 1 [93 Cal. Rptr.2d 678]. Court of Appeal, Sixth District.**

The juvenile court sustained a Welfare and Institutions Code section 602 petition alleging that the child had possessed marijuana for sale. (Health & Saf. Code, § 11359.) The assistant principal detained the child and discovered a cloth glove containing baggies that appeared to hold marijuana. A police officer came to the school, questioned the child, and later testified that the child possessed the marijuana for sale. The child had turned 18 between the incident and disposition. The juvenile court committed the child to county jail and found him ineligible for any out-of-custody programs. The child appealed, claiming that the juvenile court had erred in sentencing him to county jail.

The Court of Appeal, in a partially published opinion, determined that the juvenile court had erred in committing the child to county jail. The appellate court stated that commitment to the county jail is not one of the specified options for disposition under Welfare and Institutions Code section 202(e). The appellate court noted that although Welfare and Institutions Code section

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208.5 allows children under the jurisdiction of the juvenile court to be housed in county jail under certain circumstances, the juvenile court may not commit them as part of its dispositional order. The statutes regulating housing (Welf. and Inst. Code, §§ 207.1, 208, 208.5) cannot be interpreted as expanding the dispositional alternatives specified in section 202(e). The appellate court noted that custodial dispositions are a legislative, rather than a judicial, prerogative.

The appellate court also determined that the child was not entitled to earn conduct credits under Penal Code section 4019 or to earn work credits under Penal Code sections 2390–2392. The appellate court found that the child did not fit any of the definitions of those individuals who are entitled to earn credits under Penal Code sections 4019(a)(1)–(4), nor was he situated similarly to any of those individuals for equal protection purposes.

***In re Luisa Z.* (2000) 78 Cal.App.4th 978 [93 Cal.Rptr.2d 231]. Court of Appeal, Fifth District.**

The juvenile court committed the child to the California Youth Authority (CYA) after she admitted violating Health and Safety Code section 11359, possession of marijuana for sale, and violating her probation. The juvenile court ordered that the child register as a narcotics offender upon her release from CYA, under Health and Safety Code section 11590(a). The child appealed, claiming that the court lacked the authority to impose the registration order.

The Court of Appeal held, in a partially published opinion, that the juvenile court exceeded its authority, and thereby had the registration order stricken. The appellate court considered three issues: (1) whether the child's failure to object to the registration order during the juvenile court proceedings waived appellate review; (2) whether the registration statutes apply to an adjudicated child committed to CYA; and (3) whether the court had exceeded its authority in ordering that the child register as a narcotics offender.

The child argued that a registration order exceeded the court's statutory authority and therefore she could challenge the unauthorized sentence despite her failure to object at the disposition hearing. The appellate court agreed. In regard to the second issue, the appellate court discussed whether juvenile commitment in CYA constituted confinement in a "penal institution" as required by section 11590. The court relied on *In re Bernardino S.* (1992) 4 Cal.App.4th 613 [5 Cal.Rptr.2d 746] to interpret the narcotics registration statutes. An adjudication of a child as a ward of the court does not constitute a conviction. A comprehensive review of the statutory language, including the statute's use of the term "conviction," strongly suggested that the section 11590 registration requirement is not applicable to a child released from CYA following a juvenile adjudication. The statutory scheme, as assessed by the appellate court, excludes children from the narcotics registration requirement. The appellate court determined that the child was not within the class of offenders triggering the registration requirement, and therefore the juvenile court was not authorized to make the order.

***In re Antonio R.* (2000) 78 Cal.App.4th 937 [93 Cal.Rptr.2d 212]. Court of Appeal, Fourth District, Division 3.**

The juvenile court required, as a probation condition, that the child stay out of Los Angeles County unless he had prior permission from his probation officer or a parent accompanied him. The child resided in Los Angeles County, was an active gang member, and, according to his court report, had a lengthy arrest history. He failed to inform his probation officers when his Los Angeles residence changed. The child's parents resided in Orange County. The juvenile court then applied a probation condition preventing him from traveling from his parents' residence in Orange County to Los Angeles County. The child argued that the condition was impermissibly overbroad. He also claimed that the condition violated his constitutional rights to travel and freely associate.

The Court of Appeal held that the condition was permissible and affirmed the juvenile court's decision. Under Welfare and Institutions Code section 730, the court has the discretion to impose any reasonable condition that it determines to be just and proper so that the reformation and the rehabilitation of the ward may be enhanced. The child relied on several cases in which an adult probation condition was determined to be overbroad or unconstitutional. (See *In re White* (1979) 97 Cal.App.3d 141 [158 Cal.Rptr. 562]; *People v. Beach* (1983) 147 Cal.App.3d 612 [195 Cal.Rptr. 381]; *People v. Bauer* (1989) 211 Cal.App.3d 937 [260 Cal.Rptr. 62].) The appellate court stated that juvenile probation conditions may be broader than those restricting adult offenders. (*In re Frank V.* (1991) 233 Cal.App.3d 1232 [285 Cal.Rptr. 16].) Conditions are constitutionally valid if they are tailored to fit the individual probationer. (*In re Pedro Q.* (1989) 209 Cal.App.3d 1368 [257 Cal.Rptr. 821].) The appellate court reasoned that in the instant case, because the child could travel to Los Angeles with a parent or receive permission from his probation officer, the condition was valid. The appellate court concluded that the condition was consistent with the rehabilitative purpose of probation and constitutional parental authority.

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***In re Ricardo A.* (2000) 77 Cal.App.4th 1265 [92 Cal.Rptr.2d 349]. Court of Appeal, Second District, Division 6.**

The juvenile court sustained a petition charging the child with violating Penal Code section 12020. A detective recognized three children from the local high school and, for his own safety, conducted a pat-down search. Upon searching the child in this case from behind, he discovered that what appeared to be a pen behind the juvenile's ear was actually a dirk. The child argued that the dirk was not concealed as required by Penal Code section 12020(a).

The Court of Appeal affirmed the juvenile court's decision. A dirk must be only substantially concealed to sustain a Penal Code section 12020(a) conviction. *(People v. Wharton* (1992) 5 Cal.App.4th 72 [75, 6 Cal.Rptr.2d 673].) The appellate court stated that the weapon does not have to be hidden in a defendant's clothing to constitute substantial concealment. The appellate court agreed with the juvenile court's conclusion that the child had substantially concealed the dirk by disguising it as a ballpoint pen and placing it behind his ear.

***In re Jose H.* (2000) 77 Cal. App.4th 1090 [92 Cal.Rptr.2d 228]. Court of Appeal, Sixth District.**

The juvenile court sustained three counts of a Welfare and Institutions Code section 602 amended petition and ordered the child to serve 120 days in county jail. The child, wearing a gold ring, had punched the victim in the head after a dispute about the child's girlfriend. The child was charged with assault with a deadly or dangerous weapon with force likely to produce great bodily injury with a great bodily injury enhancement and battery with serious bodily injury with a great bodily injury enhancement. The child was also charged with misdemeanor battery on school grounds in a previous incident. The appellate court had the misdemeanor charge stricken because it was barred by the statute of limitations. The child contended that he could not be convicted of both the assault and the battery for the same act, that the battery charge may not be enhanced, and that the juvenile court did not have the authority to commit him to county jail.

The Court of Appeal determined that the juvenile court properly sustained both the assault and battery charges. The general rule, pursuant to Penal Code section 954, is that a defendant may be convicted of multiple offenses based on a single act or indivisible course of conduct. The child relied on *People v. Pearson* (1986) 42 Cal.3d 351 [228 Cal.Rptr. 509], in which the Supreme Court held that multiple convictions may not be based on necessarily included offenses. In this case, the appellate court determined that the assault and the battery were not necessarily included offenses, nor were they lesser included offenses, and that both charges were proper. The appellate court adhered to the general rule authorizing multiple convictions and did not apply the Pearson exception.

The appellate court also sustained the trial court's denial of a motion to strike the great bodily injury enhancement to the battery charge. According to the appellate court, the great bodily injury enhancement to the battery with serious bodily injury charge was not a separate sentence. The appellate court determined that the child was not punished twice for both the battery charge and the enhancement.

The Court of Appeal held that the juvenile court lacked the authority to commit the juvenile to county jail. The appellate court stated that commitment to the county jail is not on the list of permissible sanctions enumerated in Welfare and Institutions Code section 202(e). In this case, the child turned 18 years old prior to disposition. The juvenile court determined that statutes such as Welfare and Institutions Code sections 208, 208.5 (regulating the segregation of children and adults in county and state institutions), and 737(a) (providing temporary detention alternatives) do not expand the authority of the juvenile court beyond the section 202(e) permanent dispositional alternatives. The appellate court explained that it is a legislative prerogative to amend section 202(e) to include county jail as a commitment option for wards of the juvenile court.

Finally, the juvenile court was ordered on remand to make the required findings governed by Welfare and Institutions Code section 726 and rule 1493 of the California Rules of Court before removing the child from the parents' custody.

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In re R.G. **(2000) 79 Cal.App.4th 408[94 Cal.Rptr.2d 818]. Court of Appeal, Second District, Division 3.**

The juvenile court sustained a petition that a father had sexually abused his two daughters. The girls were taken into protective custody after the Department of Children and Family Services (DCFS) advised that the father had sexually and physically abused the girls, and days later, the girls' mother was granted sole physical and legal custody. The father was a teacher. DCFS petitioned the court, pursuant to Welfare and Institutions Code section 827, for permission to release the children's confidential juvenile court records in an effort to inform the employee relations supervisor and the superintendent of the father's school district. The juvenile court granted the petition. Months later, the employee relations director of the father's school district petitioned the court, pursuant to Welfare and Institutions Code section 827, to release the children's records to staff counsel of the California Commission on Teacher Credentialing (the "Commission"). The juvenile court granted the petition and ordered that the records be released. The father appealed, claiming that the report was replete with misinformation and objecting to the dissemination of allegedly incorrect information.

The Court of Appeal affirmed the juvenile court's order. The juvenile court has the authority to designate by court order other persons to inspect the juvenile court records. (Welf. & Inst. Code, § 827; *In re Keisha T.* (1995) 38 Cal.App.4th 220, 232 [44 Cal.Rptr.2d 822].) The appellate court, relying on *In re Keisha T.*, explained that rule 1423 of the California Rules of Court provides guidance to the juvenile court when it is faced with the decision to permit persons to inspect, obtain, or copy juvenile court records.

The petitioner must show good cause when seeking access to juvenile court records. (*Keisha T.. supra*, 38 Cal.App.4th at p. 240.) In the instant case, the school district in this case contended that it had good cause to disclose the information about the father to the commission because both local and state officials are to be notified when teachers have been accused of sexual misconduct with children. The commission has the authority to investigate allegations of acts by credentialed teachers, take disciplinary action, and revoke or suspend the credential. (Ed. Code, § 44242.5.) The appellate court determined that the school district had good cause to disclose the juvenile court records. The school district also has an interest in protecting school children and the public from perpetrators of sexual misconduct. The appellate court explained that juvenile court records are confidential in order to protect children's privacy, not to shield the perpetrator of sexual abuse from the consequences of his or her action. The appellate court concluded that the juvenile court did not abuse its discretion in releasing the juvenile court records.

In re Jessica K. **(2000) 79 Cal.App.4th 1313 [94 Cal.Rptr.2d 798]. Court of Appeal, Second District, Division 5.**

The juvenile court denied a mother's Welfare and Institutions Code section 388 petition and thereafter terminated her parental rights. The child had been declared a dependent of the juvenile court because of the mother's neglect and drug usage. The mother filed a petition for a Welfare and Institutions Code section 388 hearing to regain custody of her child on the ground that she had attained sobriety and participated in a drug treatment program. The petition was denied. Later, the juvenile court ordered the termination of the mother's parental rights. The mother appealed, seeking reversal of the summary denial of the section 388 petition. She did not appeal the termination of parental rights.

The Court of Appeal dismissed the mother's appeal as moot. (*Eye Dog Foundation v. State Bd. of Guide Dogs for the Blind* (1967) 67 Cal.2d. 536, 541.) The juvenile court's decision to terminate parental rights is final so the mother's parental rights could not be restored. Because the mother appealed the order denying her modification petition only, not the order terminating parental rights, the appellate court lacked jurisdiction. The appellate court noted that the mother could have (1) appealed the termination of parental rights order on its merits, (2) appealed the termination of parental rights to preserve her appeal of the section 388 petition denial, or (3) filed an extraordinary writ regarding the section 388 petition denial prior to the parental rights termination hearing.

In re Lukas B. **(2000) 79 Cal.App.4th 1145 [94 Cal.Rptr.2d 693]. Court of Appeal, Second District, Division 4.**

The juvenile court ordered the termination of a father's parental rights pursuant to Welfare and Institutions Code section 366.26. The father's two children had been declared dependents of the juvenile court because the mother was a habitual user of illegal drugs and the father's ability to care for the children was unknown. The children resided with their paternal grandmother. When reunification services were terminated and the court set a Welfare and Institutions Code section 366.26

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hearing, the father was personally served at his mother's address and notice was also mailed. Because the location of the hearing was improper, the father's continued hearing notice was personally served to his mother and also mailed to that address. There was evidence that the father had lived with his mother until her death. Because of the death of the paternal grandmother, the children were placed with their maternal great aunt and uncle, who wished to adopt them. The father filed a Welfare and Institutions Code section 388 petition to modify the order and have the children placed with him. The 388 petition was later amended to deny allegations of sexual abuse. The juvenile court denied the 388 petition. The juvenile court also terminated parental rights because, although the father visited with the children, they would not benefit from a continued relationship with him. The father appealed, claiming that he did not have proper notice of the 366.26 hearing and that there was not substantial evidence to conclude that the children were likely to be adopted.

The Court of Appeal affirmed the juvenile court's decision. The appellate court concluded that the father had failed to support his contention that he was improperly served. He had waived the issue of improper notice by not raising the issue in trial court. The father had also waived the issue that his mother was not competent to receive notice because of a language barrier. There was nothing on the record to support the contention that she was incompetent. Also, the appellate court declined to decide whether an adoptibility finding was made at the 366.26 hearing.

In addition, the appellate court determined that termination of the father's parental rights was proper. When reunification with a parent is not probable, adoption is the preferred permanent plan. (*In re Edward R.* (1993) 12 Cal.App.4th 116, 122 [15 Cal.Rptr.2d 308].) The termination of parental rights can be ordered if by a clear and convincing standard the children are likely to be adopted. (Welf. & Inst. Code, § 366.26(c)(1).) An exception exists, as contended by the father, when the parents or guardians have maintained regular visitation and contact such that the children would benefit from continuing the relationship. (Welf. & Inst. Code, § 366.26(c)(1)(A).) The appellate court determined that there was substantial evidence that the children were likely to be adopted. The court noted that the appearance of the children's behavioral problems corresponded with an increase in the father's visitation and that the visits did not go well. The children's relatives were still not dissuaded from adopting the children. The appellate court concluded that the Welfare and Institutions Code section 366.26(c)(1)(A) exception did not apply and that the juvenile court properly terminated the father's parental rights.

***In re Jasmine D.* (2000) 78 Cal.App.4th 1339 [93 Cal.Rptr.2d 644]. Court of Appeal, First District, Division 3.**

The juvenile court ordered the termination of the mother's parental rights. The juvenile court recognized that the mother had regularly visited her daughter, but she had not progressed from supervised to unsupervised visits. The mother had complied with none of the reunification plan requirements. The mother appealed, contending that her parental rights should be preserved under Welfare and Institutions Code section 366.26(c)(1)(A).

The Court of Appeal affirmed the decision of the juvenile court. The mother relied on the holding of *In re Cory M.* in which the appellate court required the juvenile court to find that the child would not benefit from a continuing parental relationship before it terminated parental rights. (*In re Cory M.* (1992) 2 Cal.App.4th 935 [3 Cal.Rptr.2d 627].) The court assessed the difference between the statute under which *Cory M.* was decided, Welfare and Institutions Code section 366.25 (which governed permanency planning hearings prior to January 1, 1989), and the current statutes, section 366.26 et seq. Under the new statutes, the critical decision of whether the child should be returned home and reunification services pursued takes place at the review hearing. If the child is going to be adopted, the court's decision to terminate parental rights is "relatively automatic." (*In re Cynthia D.* (1993) 5 Cal.4th 242 [19Cal.Rptr.2d 698].) The new statutes no longer require the *Cory M.* finding of no benefit from a continuing parental relationship before the court can terminate parental rights.

Section 366.26(c)(1)(A) permits an exception to the termination of parental rights if the parent can prove that the natural parental relationship promotes the well-being of the child to such a degree that it outweighs the well-being the child would gain with new adoptive parents. Adoption, as the legislative preference, should be ordered unless exceptional circumstances exist. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51 [82 Cal.Rptr.2d 426].) The court must provide "a compelling reason for determining that termination would be detrimental to the child." (Stats. 1998, ch. 1054, § 36.6, p. 6365.) The juvenile court may reject a parent's claim under section 366.26(c)(1)(A), as in this case, by finding that the parental relationship does not benefit the child significantly enough to outweigh the preference for adoption.

The appellate court relied on *In re Stephanie M.* in determining that the abuse of discretion standard is a more appropriate standard of review than is the routinely applied substantial evidence test. The abuse of discretion test is used by the appellate court to determine

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whether a trial court has exceeded the bounds of reason. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318 [27 Cal.Rptr.2d 595.) The appellate court stated that broad deference should be shown to the trial judge. In *Jasmine D.*, the benefit of a permanent, adoptive home outweighed the benefit of a continued relationship with the mother. The appellate court held that the juvenile court had not abused its discretion.

***In re Caitlin B.* (2000) 78 Cal.App.4th 1190 [93 Cal.Rptr.2d 480]. Court of Appeal, Third District.**

The juvenile court ordered termination of the mother's parental rights at a Welfare and Institutions Code section 366.26 hearing. The mother's two children were removed from her care and placed with separate foster families. When the social worker believed that the children were adoptable, the court set a Welfare and Institutions Code 366.26 hearing. Both of the children's fathers were served by publication. Since the children had been in the dependency system, only one man had been identified as the younger child's father (Father 1), and he had been noticed throughout the proceedings. In response to the social worker's report for the 366.26 hearing, the mother identified another man as the younger child's father (Father 2). At the hearing, no one objected to the termination of parental rights on the grounds that Father 1 had not been properly served. However, on appeal the mother contended that the juvenile court had erred when it terminated her parental rights, because neither Father 1 nor Father 2 had had proper notice of the 366.26 hearing.

The Court of Appeal, in a partially published opinion, determined that the mother had no standing to assert that the juvenile court had erred. If the interests of two parties interweave, then either party has standing to litigate issues that have an impact on related interests. (*In re Patricia E.* (1985) 174 Cal.App.3d 1, 6 [219 Cal.Rptr. 783].) If there are no such intertwined interests, then a parent is precluded from raising issues on appeal that did not affect his or her own rights. (*In re Jasmine J.* (1996) 46 Cal.App.4th 1802, 1806 [54 Cal.Rptr.2d 560].) The mother in this case had no interest in asserting either father's statutory right to notice or due process right to be heard. She was unable to identify the natural father and she had no continuing relationship with him. Therefore, the mother's interests did not interweave with the father's interests. The mother relied on rule 1463(a) of the California Rules of Court, arguing that her parental rights could not be terminated because the younger child's father's parental rights could not be terminated without notice of the hearing. In this case, both parents' rights were terminated and rule 1463(g) did not authorize the mother to appeal or to benefit from a notice error in terminating the father's rights. The appellate court stated that rule 1463 requires that the termination of both parents' rights shall occur in a single proceeding to free the dependent child for adoption. (*In re Joshua M.* (1997) 56 Cal.App.4th 801, 808 [65 Cal.Rptr.2d. 748]; Cal. Rules of Court, rule 1463(g).) The mother had no standing to assert her contention, and the juvenile court had not erred in terminating her parental rights.

***Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570 [93 Cal.Rptr.2d 103]. Court of Appeal, First District, Division 2.**

The juvenile court terminated the father's reunification services and set a Welfare and Institutions Code section 366.26 hearing. The Alameda Social Services Agency filed a Welfare and Institutions Code section 300 petition upon finding that the mother was unable to supervise her children because of a substance abuse problem. The father had been in and out of jail several times but nonetheless expressed an interest in being reunified with his children. He made efforts such as graduating from parenting class while incarcerated, but he failed to comply with the case plan. Upon the juvenile court's determination to terminate reunification services, the father filed an extraordinary writ petition under rule 39.1B of the California Rules of Court, claiming that services were insufficient.

The Court of Appeal denied the extraordinary writ petition. Under rule 39.1B(j), the writ shall summarize the factual basis for the petition, refer to significant and disputed facts, and contain applicable points and authorities. The appellate court stated that the petition in this case did not comply with rule 39.1B(j). The reviewing court has the following options when a petition is insufficient: (1) dismiss and summarily deny the petition; (2) summarily deny the petition on its merits, when it is procedurally adequate; (3) offer an option for counsel to amend the deficient petition; (4) overlook the deficiencies and make an independent review. Under Welfare and Institutions Code section 366.26 (1)(3)(A), the intent of the subdivision is to ensure that the appellate court achieves substantive and meritorious review. The appellate court noted that neither section 366.26 nor rule 39.1B requires that petitions be decided on their merits.

The appellate court stressed that it is the obligation of the attorney to comply with section 366.26, rule 39.1B, and case law with respect to adequate petitions. In the instant case, the appellate court ordered the father's attorney to submit additional briefs to remedy the insufficient petition. The attorney failed to do so and even expressed concern that the case had no merit. The appellate court announced that it would

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summarily deny any petitions that failed to comply with section 366.26 and rule 39.1B in an effort to deter future violations.

The appellate court, in its discussion of the case's merits, determined that there was no evidence to support a finding that the father was a statutorily presumed father. Only a presumed father is entitled to reunification services. (Welf. & Inst. Code, § 361.5(a).) Therefore, since the father was not entitled to reunification services, the court did not address the adequacy of the services.

***In re Axsana S.* (2000) 78 Cal.App.4th 262 [92 Cal.Rptr.2d 701]. Court of Appeal, Fifth District.**

The juvenile court denied the father reunification services pursuant to Welfare and Institutions Code section 361.5(a). The child's father was incarcerated. The child and her sibling were detained and placed in foster care when their mother was taken to a psychiatric hospital. The juvenile court appointed the father legal counsel and made the necessary orders to secure his presence at the jurisdictional hearing. The state prison refused to release the father for dependency proceedings until his pending criminal charges were resolved. The Kings County Human Services Agency recommended that reunification services for the father would not be in the child's best interest because of his drug abuse, minimal contact with the child, and pending murder charges. The juvenile court determined that the child would not benefit from reunification services with her father. The father appealed the decision, claiming that he was denied due process of law when he was not transported to the dispositional hearing.

In a partially published opinion, the Court of Appeal affirmed the juvenile court's holding. The father argued that a defendant in a civil action that threatens his or her personal interest has a constitutional due process right to access to the courts in order to present a defense. In this case, the appellate court stated that the father had meaningful access to the courts through his counsel. The father did not avail himself of alternative means to present evidence, such as writing a statement to the court concerning his entitlement to reunification services or having his attorney call witnesses to testify on his behalf. The appellate court determined that the juvenile court's reliance on the holding of *In re Rikki D.* (1991) 227 Cal.App.3d 1624 was appropriate. *In re Rikki D.* held that the statutory right to be present at critical hearings pursuant to Penal Code section 2625 does not require the physical presence of the incarcerated parent and that the presence of the parent's attorney is sufficient.

The appellate court also rejected the father's argument that the court should have ordered another continuance until the completion of his criminal proceedings. Juvenile dependency petitions should be decided rapidly, and continuances are discouraged. (*Jeff M. v. Superior Court* (1997) 56 Cal.App.4th 1238, 1241.) Welfare and Institutions Code section 352(b) provides in pertinent part that a continuance cannot be made if it would cause the dispositional hearing to occur six months or more after the detention hearing. In this case, the father's criminal trial was not scheduled until five and half months after the child was detained. The juvenile court could not continue the case until the father's criminal proceedings were complete because it would have potentially violated section 352(b). The appellate court concluded that the juvenile court's decision did not violate the father's due process rights.

***In re Phillip F.* (2000) 78 Cal.App.4th 250 [92 Cal.Rptr.2d 693]. Court of Appeal, Fifth District.**

The juvenile court ordered termination of the mother's parental rights at a Welfare and Institutions Code section 366.26 hearing. The mother had a substance abuse problem and failed to submit to drug testing. After a series of placements in many counties, the children were placed in the mother's custody in Kern County. Social workers found no food in the mother's residence during their visits to the residence, and a drug test was strongly positive for cocaine. Thereafter, the children were detained and placed in foster care, and a permanent plan hearing was set at the end of December. The mother failed to appear although she was personally served. The hearing was continued until March, and the mother's counsel was present. The Kern County Department of Human Services mailed written notice of the continuance to the mother's Kern County address. The mother failed to appear at either the continued hearing or the subsequent section 366.26 hearing. She appealed, claiming that the court's finding that she had notice of the continued hearing was erroneous and that she was entitled to

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renotice pursuant to Welfare and Institutions Code section 366.23.

The Court of Appeal, in a partially published opinion, held that the juvenile court had properly ascertained the mother's having actual notice of the continuance and that she was not entitled to renotice. As a general rule, when proper notice has been provided initially and the party fails to appear, the court may continue the trial without requiring that further notice be given to the absent party. Section 366.23(a) establishes the notice requirements for service of process when the court schedules a section 366.26 hearing. The appellate court in *In re Malcolm D.* (1996) 42 Cal.App.4th 904 implicitly applied two general principles: that the mandatory notice statute does not apply when there is a properly noticed, continued proceeding and that it does not apply when a parent had actual notice of the matter by being present in court. The appellate court determined that the mother in this case had actual notice, from (1) the court's stated assumption that the mother's counsel would notify her of the continued date, (2) her counsel's response that the mother wished to set the case for contested hearing, (3) her counsel's failure to object to the court's finding that the mother had been provided notice at the contested hearing, and (4) the mother's request to modify the court's orders on the grounds that she was unable to attend the continued hearing, not that she was unaware of the hearing. The appellate court stated that renotice according to section 366.23 is not necessary to satisfy due process. The appellate court affirmed the decision of the juvenile court.

***In re Levi U.* (2000) 78 Cal.App.4th 191 [92 Cal.Rptr.2d 648]. Court of Appeal, Third District.**

The juvenile court adjudged the child a dependent of the court and denied the mother reunification services. The mother was alleged to have had substance abuse and mental health problems for at least 10 years. The social worker reported that it did not appear that the mother had sought any treatment for substance abuse. Also, the mother admitted to an episode of methamphetamine use that took place only a few days prior to the Welfare and Institutions Code section 300 petition filing. Before the jurisdiction and disposition hearings, the assertion was made that the Indian Child Welfare Act (ICWA) applied to the proceedings. The ICWA was designed to promote the stability and security of Indian tribes and families. Upon learning of the assertion, the Children's Services Division (CSD) notified the Bureau of Indian Affairs (BIA) that the child might be an Indian. The mother contended on appeal that CSD had violated the ICWA (25 U.S.C. § 1901 et seq.), and that the denial of reunification services violated her due process rights.

The Court of Appeal affirmed the juvenile court's order adjudging the child a dependent and its denial of reunification services. The mother contended that improper notice was given under the provisions of ICWA. (25 U.S.C. § 1912(a).) The mother relied in part on *In re Kahlen W.* (1991) 233 Cal.App.3d 1414 [285 Cal.Rptr. 507]. The appellate court noted that *Kahlen W.* emphasized that notice to the tribe is mandatory. Rule 1439(f)(4) of the California Rules of Court states that if the location of the parent or Indian custodian or tribe cannot be determined, notice shall be sent to the specified office of the Secretary of the Interior. In this case, CSD notified the BIA early on in the proceedings that the child might have Indian heritage, and received no response. The appellate court concluded that there was no showing that the child was an Indian within the meaning of the ICWA. The appellate court determined that CSD acted as required by United States Code section 1912(a) and rule 1439(f)(4). In addition, neither the court nor CSD was required to make any further inquiry as to the child's Indian heritage. The appellate court held that the juvenile court was correct in finding the ICWA inapplicable.

The Court of Appeal also affirmed the juvenile court's decision to deny the mother reunification services. If a juvenile court finds by clear and convincing evidence that a parent has a history of abusive drug or alcohol use and has resisted prior treatment for the problem, reunification services need not be provided. (Welf. & Inst. Code, § 361.5(b)(12).) In this case, the mother was a chronic drug user and had never participated in treatment. The appellate court determined that the mother had "resisted prior treatment" for drug abuse by refusing to attend a program. (*Karen S. v. Superior Court* (1999) 69 Cal.App.4th 1006, 1010 [81 Cal.Rptr.2d 858].) Therefore, the juvenile court had correctly applied section 361.5(b)(12).

Summaries of Other Child-Related Cases

CASES PUBLISHED FROM JANUARY 14, 2000, THROUGH APRIL 30, 2000

***Cimarusti v. Superior Court* (2000) 79 Cal.App.4th 799 [94 Cal.Rptr.2d 336] Court of Appeal, Second District, Division 4.**

After an administrative law judge denied four youth correctional officers' petition for discovery of six wards' juvenile records and their request to interview the wards, the officers brought suit in superior court. The officers, employed by the California Youth Authority (CYA), received notices of adverse action informing them of their dismissals for engaging in or failing to stop or report the use of unauthorized physical force on six children in custody. The officers had requested certain discovery evidence from CYA and had requested access to the children for interviews. CYA declined to provide certain items because they were included in juvenile records, which could be disclosed only upon an order of the juvenile court pursuant to Welfare and Institutions Code section 827. CYA also declined access to the wards. The trial court (1) determined that the records sought by the officers were confidential and that only the juvenile court judge could order disclosure of them, and (2) refused to order CYA to provide access to the children for interviews. The trial court's decision was not appealable, and the officers petitioned the appellate court by writ of mandate.

The Court of Appeal denied the writ of mandate and concluded that the trial court's decisions were correct. The appellate court determined that Welfare and Institutions Code section 827 controlled the issue of disclosure of juvenile court records, not Government Code section 19574.1 (requiring disclosure of records in the possession of the appointing power to disciplined employees.) The officers had requested, among other documents, the disciplinary and medical files of the wards. Because these documents purportedly contained juvenile court records, only the juvenile court judge had the authority to review them. The appellate court noted that superior court judges not designated to the juvenile court may not hear and rule on juvenile court matters.

The appellate court stated that on remand, the presiding judge should assign a designated juvenile court judge to examine the confidential files and determine which documents should be disclosed to the officers. Pursuant to Government Code section 19574.2, the designated judge may order any requested items that are not considered juvenile court records. The designated judge may order disclosure of juvenile court records, within the meaning of Welfare and Institutions Code section 827, in the exercise of delegated discretion under the authority of the juvenile court. The designated court, in exercising its discretion, should consider the best interest of the children, including the confidentiality of their records, against the officers' needs and interests in disclosure. (*Foster v. Superior Court* (1980) 107 Cal.App.3d 218, 227–230 [165 Cal.Rptr 701].)

Relying on *Navajo Express v. Superior Court*, the appellate court stated the following guidelines for the process of record evaluation: (1) the petitioners need to ensure that the information they seek is specific and clearly articulated in order to assist the court in performing its review; and (2) the court should determine if the records pertain to the pending proceeding or would be otherwise discoverable under Government Code section 19574.1 but for their character as juvenile court records; and (3) if the records are otherwise discoverable, the court should decide if the need for discovery outweighs the policy considerations favoring juvenile court record confidentiality. (*Navajo Express v. Superior Court* (1986) 186 Cal.App.3d. 981 [231 Cal.Rptr. 165].)

The appellate court also determined that the officers did not have the right to speak personally with the children to request an interview. The appellate court stated that there is generally no due process right to prehearing discovery in administrative hearings and that the scope is governed by statute and agency discretion. (*Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 302 [58 Cal.Rptr.2d 721].)

***Brian C. v. Ginger K.* (2000) 77 Cal.App.4th 1198 [92 Cal.Rptr.2d 294]. Court of Appeal, Fourth District, Division 3.**

The trial court, in this paternity action, granted the mother's summary judgment motion. While cohabiting with her husband, the mother had an affair and became pregnant by a different man. Shortly thereafter, the mother separated from her husband and moved in with the other man. Their child was born seven months later. The putative father was present at the birth, and his name appeared on the birth certificate and baptismal records. The mother, putative father, and child lived together as a family for a little over a year. The mother and putative father broke up and the mother and child moved out. The putative father continued to see the child regularly. When the mother reconciled with her husband, she cut off all contact between the putative father and the child. The putative father filed a

paternity action. At the hearing, the trial court granted the mother's motion for summary judgment, based on its finding that the mother and her husband were cohabiting at the time of conception, and the husband was neither impotent nor sterile. Under Family Code section 7540, the child was conclusively presumed to be a child of the marriage. The putative father appealed.

The Court of Appeal reversed the decision of the trial court, holding that the putative father had a constitutionally protected liberty interest in the continuation of his parental relationship with the child. The appellate court discussed the evolution of essential paternity cases. Following *Stanley v. Illinois* (1972) 405 U.S. 645 [92 S.Ct. 1208] (in which the U.S. Supreme Court found that the due process clause of the Fourteenth Amendment to the Constitution places some limits on the operation of states' paternity laws), *In re Lisa R.* (1975) 13 Cal.3d 636 [119 Cal.Rptr. 475] and *In re Melissa G.* (1989) 213 Cal.App.2d 1082 [261 Cal.Rptr. 894], the Court of Appeal held that the conclusive presumption could not be constitutionally applied in this case because of the relationship between the putative father and the child that had already been formed and was only interrupted by the mother returning to her husband and refusing the putative father contact with the child. Before the mother returned to her husband, the relationship between the child, the mother, and the putative father resembled a traditional nuclear family.

The Court of Appeal also held that the putative father had statutory standing. According to Family Code section 7611(d), a man is the presumed father if he receives a child into his home and acknowledges the child as his own, which the putative father in this case had clearly done. Under Family Code section 7630(b), any interested party may bring an action to determine the existence or nonexistence of a father-and-child relationship presumed under section 7611(d).

Although the husband came within two statutory presumptions of paternity, the putative father also came within the section 7611(d) statutory presumption, and thus he had standing.

***People v. Stewart* (2000) 77 Cal.App.4th 785 [91 Cal.Rptr.2d 888]. Court of Appeal, Fourth District, Division 1.**

In an adult criminal proceeding, the defendant was convicted of assault on a child under 8 years of age resulting in death (Pen. Code, § 273ab). The police responded to a 911 call from the defendant that his child had stopped breathing. The police found the defendant attempting to perform CPR on his 2-year-old child. The child had died well before the paramedics arrived. The medical examiner concluded that the cause of death was from brain damage and swelling resulting from severe shaking or repeated blunt-force blows to the back of the child's head. Based on the evidence, the jury determined that the defendant had violated Penal Code section 273ab. The defendant challenged the sufficiency of one of the required elements of Penal Code section 273ab. He also contended that the trial court had failed to instruct the jury on lesser-included offenses.

The Court of Appeal, in a partially published opinion, affirmed the jury's conviction under section 273ab. The defendant argued that there was no evidence presented to establish the element of section 273ab requiring that, to a reasonable person, the assault was committed with force likely to cause great bodily injury. (*People v. Preller* (1997) 54 Cal.App.4th 93, 97–98 [62 Cal.Rptr.2d 507].) The Court of Appeal determined that the expert testimony describing the extent of the child's injuries provided substantial evidence to meet this element of the offense. According to the medical examiner, the defendant caused 25 bruises to the back of the child's head and that the child had sustained head injury as if he had been dropped from a high-rise building. The appellate court stated that a reasonable person would clearly know that either violent shaking or repeated blunt blows to a child's head would likely produce great bodily injury.

The Court of Appeal held that the trial court had no duty to instruct the jury of the purported lesser-included offenses of involuntary manslaughter or second-degree felony murder. The general rule is that the court has a duty to instruct the jury on all principles of law relevant to the issues raised by the evidence. (*People v. Hood* (1969) 1 Cal.3d 444, 449 [82 Cal. Rptr. 618].) It is judicial error for the court to instruct the jury on a lesser-included offense if the defendant, if guilty at all, could be guilty only of the greater offense. In this case, the court relied upon *Orlina v. Superior Court* (1999) 73 Cal.App.4th 258 [86 Cal.Rptr.2d 384], to conclude that involuntary manslaughter is a lesser-related offense of section 273ab and not a lesser-included offense. The court had no duty to instruct the jury on involuntary manslaughter. The court also determined, in accord with *People v. Ireland* (1969) 70 Cal.2d 522 [75 Cal.Rptr.188], that the felony-murder rule was inapplicable to those felonies, which were an integral part of the homicide. The assault likely to produce great bodily injury in this case was an integral part of the child's death. The trial court had no duty to instruct the jury of the lesser-included offense of second-degree felony murder.

CFCC

NEW EMPLOYEES

The Center for Families, Children & the Courts is delighted to welcome our newest colleagues: Mara Bernstein, Judie Braaten, Stephanie Leonard, Don Will, and Michael Wright.

Before joining CFCC as staff attorney for the Juvenile Review and Technical Assistance Project, ***Mara Bernstein*** was a staff attorney at the Legal Aid Office in Marin County for four years, representing children and parents in abuse and neglect proceedings. Mara also handled general legal services cases, including domestic violence restraining orders, eviction cases, emancipations, and guardianships. Mara enjoys traveling and reading in her spare time.

Judith Braaten (Judie) is our new administrative coordinator and works with the Special Services, Standards and Programs, and Training and Education working groups. Judie has 12 years of experience as a secretary and administrative coordinator in the Oregon justice system, including work with support enforcement, civil default judgments, and small claims. Judie also provided support services to the F.E.D. (evictions) department before transferring to Oregon's Probate Court, where she worked in the Civil Commitments Department for a year. Judie raises Morgan horses and spent three years racing sailboats on the Columbia River.

Stephanie Leonard has joined the Center for Families, Children & the Courts as a staff analyst for the Court-Appointed Special Advocate (CASA) Programs Grants Administrator. Stephanie was previously the Rules and Projects Administrative Coordinator at the Administrative Office of the Courts, where she managed all the rules, forms, and standards for the Judicial Council. Stephanie maintained a a private psychotherapy practice from 1988 to 1993. She loves spending time with her family and three dogs, reading, and hiking.

Don Will is a research analyst with the Evaluation and Research Program. Don comes to us from the California Department of Health Services, where he managed and analyzed data on tuberculosis in the state. Don has also worked in geriatric health and social services at the National PACE Association. Don enjoys hiking in his free time.

Michael Wright joined the AOC in May as an attorney for the AB 1058 team. Michael comes to us after 10-plus years with the Marin County District Attorney's Affice, where he was the supervising attorney of the Family Support Division for the last two and a half years. Michael previously worked in the area of family law for the San Francisco firm of Greene, Kelley & Tobriner. Michael is an alumnus of Indiana University, Bloomington, and received his juris doctorate from the University of San Francisco.

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